REMARKS

This application has been reviewed in light of the Office Action mailed April 18, 2005. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 2, 3, 5, 8, 10 and 11-14 are pending in the application with Claims 11-14 having been previously withdrawn from consideration, and Claims 2, 3, 5 and 10 being in independent form. By the present amendment, Claims 2, 3, 5 and 10 have been amended. No new matter has been introduced by way of the present amendment.

I. Rejection of Claims 2, 3, 5, 8 and 10 Under 35 U.S.C. §103(a)

Claims 2, 3, 5, 8 and 10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,914,950 issued to Tiedemann Jr. et al. in view of U.S. Patent No. 5,914,950 issued to Tanaka et al. In response, Claims 2, 3, 5 and 10 have been amended in a manner believed to obviate the rejection.

Tiedemann Jr. et al. teaches a method of assigning a maximum scheduled transmission rate to a base station. However, Tiedemann Jr. et al. does not disclose or suggest determining a maximum transmission rate for each of a plurality of transmission channels for a next scheduled transmission time slot for each said mobile station, as recited in the claims.

The Examiner asserts that Tiedemann Jr. et al. discloses a communication system capable of variable rate transmission, wherein the maximum transmission rate is found based on a number of factors, including frame error rate (FER). (See: col. 18, lines 10-30). The Tiedemann Jr. et al. channel scheduler can temporarily assign lower transmission rates to remote stations if the FER at the cell is high or the total received power is above a predetermined threshold. The temporary transmission rates can be sent to the remote station 6 immediately, without waiting for the next scheduling period.

However, Tiedemann Jr. et al. provides only one maximum rate that is applied to all transmission channels. As disclosed by Tiedemann Jr. et al. with reference to FIG. 8, Channel scheduler 12 selects the scheduled user on the priority list having the highest priority at step 216 The cells supporting this user are identified and listed in the active member set of the user. For each of the listed cells of the active member set, the channel scheduler 12 calculates the maximum supportable transmission rate for the user in step 218. (See: col. 11, lines 32-41).

To ensure that the reverse link capacity allocated to a remote station 6 for a scheduled task, can be supported by each cell listed in the active member set, channel scheduler 12 selects the minimum transmission rate from the list of maximum supportable transmission rates at step 220. (See: col. 11, line 65 through col. 12, line 4). The selected minimum transmission rate becomes the maximum scheduled transmission rate. Thus, in Tiedemann Jr. et al. the maximum scheduled transmission rate is not the actual maximum transmission rate of a given transmission channel, but rather the least common denominator for all the transmission channels.

Contrastingly, Applicant's claimed invention determines a maximum transmission rate for each transmission channel independently. Specifically, Claim 2 recites in part: "...determining a maximum transmission rate for each of a plurality of transmission channels for a next scheduled transmission time slot for each said mobile station calculated directly from values representing a radio wave propagation condition under which each said mobile station is presently situated..." (Emphasis added). Claims 3, 5 and 10 recite similar relevant limitations. The invention, as recited in Applicant's Claims 2 and 10, allows communication at the determined maximum transmission rate for that particular transmission channel, not at a least common denominator transmission rate, as taught in Tiedemann Jr. et al.

Tanaka et al. teaches a radio communication system with transmission rate regulation. The Tanaka et al. system provides an RSSI detector, which detects the electric field level of a

received signal. The detected level value is used by a transmission rate determiner to determine an initial transmission rate value, which is then transmitted by the radio unit to a base station. The base station, in turn, transmits a control signal at the assigned initial transmission rate value.

However Tanaka et al. fails to overcome the above-identified deficiency in Tiedemann Jr. et al., namely Tanaka et al. fails to disclose or suggest determining a maximum transmission rate for each of a plurality of transmission channels for a next scheduled transmission time slot for each said mobile station. Consequently, Tiedemann Jr. et al. and Tanaka et al., taken alone or in any proper combination, fail to disclose or suggest the invention as recited in Applicant's Claims 2, 3, 5 and 10.

Claim 8 depends from independent Claim 5 and thus recites the limitations of that independent claim. Therefore, independent Claims 2, 3, 5, 8 and 10 are believed patentably distinct and allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 2, 3, 5, 8 and 10 under 35 U.S.C. §103(a) over Tiedemann Jr. et al. in view of Tanaka et al.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 2, 3, 5, 8 and 10 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,

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